

***ADOPTION OF AN AMENDMENT TO CHAPTER 101  
(SUBDIVISION ORDINANCE)  
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA***

*At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Monday, June 21, 2004, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 101 (Subdivision Ordinance) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:*

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:*

*Amend Chapter 101 (Subdivision Ordinance), as follows:*

**Amend the Subdivision Ordinance by adding a new paragraph (24) to Section 101-2-2. (Minimum requirements.) to read as follows:**

*(24) Shared Utility Easements.*

(A) Common or shared easements shall be provided for conveyance to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location and size of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, as approved by the Director, shall be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements recorded in the land records of Fairfax County. The requirement may be waived where a release has been executed by all of the public service

corporations or franchised cable television operators stating that: facilities are already installed except for individual service connections; or, service will not be provided to the proposed subdivision; or, facilities will not be installed in the common easement; and, the public service corporations or franchised cable television operators do not request to reserve use of the easement for installation of future facilities. The original executed releases shall be submitted to the Director on a standard form available from the Director.

(B) In addition to the notice requirement of Section 101-2-1, any person who submits a construction plan or a final subdivision plat only, when a construction plan is not required, that is subject to the above requirement shall send a written notice and a copy of such plan or plat to the owners of all public service corporations and franchised cable television operators furnishing cable television, gas, telephone and electric service to the proposed subdivision. The notice shall request that the owners review the plat or plan and advise the County Office identified in the notice and the person submitting the plat or plan of their intent to provide service to the subdivision and if they will be installing facilities in the common easement or are requesting to reserve use of the easement for installation of future facilities.

(C) All written notice required by this paragraph shall include the tax map reference number, the street address of the parcel, the preliminary subdivision plat, final subdivision plat, or construction plan name and County identification number and shall state that: (1) changes and corrections to the final subdivision plat or construction plan may occur prior to approval; (2) persons wishing to be notified of the approval of the final subdivision plat or construction plan should submit a written request to that effect to the County Office identified in the notice; (3) the address and telephone number of the County Office where a copy of the final subdivision plat or construction plan may be reviewed; (4) the easement is intended for use by public service corporations and franchised cable television operators furnishing cable television, gas, telephone and electric service to the proposed subdivision and the size of the common easement, as approved by the Director, will be based on the number and the types of facilities that are proposed to be located in the easement; (5) space will be included in the easement for their use and the common easement will be conveyed to them on the plat unless they sign a release indicating that they will not be providing service to the subdivision or will not be placing facilities in the common easement and do not request to reserve use of the easement for installation of future facilities; (6) the final subdivision plat or construction plan is subject to approval after the expiration of thirty (30) days after the postmark date of the notice unless releases or letters of intent are received from all public service corporations and franchised cable television operators required to be notified; and (7) if releases or letters of intent are received from all public service corporations and franchised cable television operators required to be notified, the final subdivision plat or construction plan may be approved sooner than thirty (30) days after the postmark date of the notice.

(D) Such plan or plat and notice shall be sent by certified mail, return receipt requested, postmarked no later than five (5) days after the initial submission of the plan or plat to the Director, to the owner's current registered agent on file with the State Corporation Commission. A copy of the notice and plan or plat with the corresponding postmarked white receipt shall be submitted to the Director and no plan or plat subject to this paragraph shall be

approved within thirty (30) days following the postmark date on the white receipt for the certified mailing unless releases or letters of intent are received from all public service corporations and franchised cable television operators required to be notified. If releases or letters of intent are received from all public service corporations and franchised cable television operators required to be notified, the plan or plat may be approved sooner than thirty (30) days after the postmark date on the white receipts for the certified mailings.

(E) The requirements of paragraph 24 shall not apply to any single division or redivision of a tract, plot, or parcel of land into two (2) lots or parcels or to any minor adjustment of property lines as defined in § 101-4-1.

**Amend Section 101-2-3 (Preliminary subdivision plats) paragraph (d)(2) to read as follows:**

(2) Unless delayed by a federal or State review, a preliminary plat shall be acted upon within sixty (60) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. Any preliminary plat that has been previously disapproved and has been modified and corrected to address all deficiencies shall be acted upon within forty-five (45) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. The Director shall thoroughly review the plat and make a good faith effort to identify all deficiencies, if any, with the initial submission. If the preliminary plat is disapproved, the reason or reasons for such disapproval shall be shown on the plat or in a separate document. The reasons for disapproval shall identify all deficiencies in the plat which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify such modifications or corrections as will permit approval of the plat.

**Amend Section 101-2-4 (Construction plan.) paragraph(d) to read as follows:**

(d) Approval. The Construction Plan shall be acted upon within sixty (60) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. Any construction plan that has been previously disapproved and has been modified and corrected to address all deficiencies shall be acted upon within forty-five (45) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. The Director shall thoroughly review the construction plan and make a good faith effort to identify all deficiencies, if any, with the initial submission. If the construction plan is disapproved, the reason or reasons for such disapproval shall be shown on the plan or in a separate document. The reasons for disapproval shall identify all deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies, and shall identify such modifications or corrections as will permit approval of the plan.

**Amend Section 101-2-5 (Final subdivision plat.) paragraph (c)(6) to read as follows:**

(6) The accurate location and dimensions by bearings and distances with all curve data of all lot and street lines, center lines of streets, center lines of all easements, boundary lines of all parks, school sites or other public areas; the house number and area of all single-family dwelling building sites; all existing and platted streets, their names, numbers and width (if definable); existing and proposed utility easements; and, the deed book and page number of a declaration of the terms and conditions recorded in the land records of Fairfax County for any common or shared easement shown on the plat. Names of owners or lot and subdivision names, accurate location of their property lines, both within the boundaries of the subdivision and adjoining such boundaries.

**Amend Section 101-2-5 (Final subdivision plat.) paragraph (d)(1) to read as follows:**

(d) Approval.

(1) Final plats shall be acted upon within sixty (60) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. Any final plat that has been previously disapproved and has been modified and corrected to address all deficiencies shall be acted upon within forty-five (45) days, except under abnormal circumstances, from receipt thereof in the Office of the Director. The Director shall thoroughly review the final plat and make a good faith effort to identify all deficiencies, if any, with the initial submission. If the final plat is disapproved, the reason or reasons for such disapproval shall be shown on the plat or in a separate document. The reasons for disapproval shall identify all deficiencies in the plat which cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies, and shall generally identify such modifications or corrections as will permit approval of the plat. Final plats shall be approved for the Board of Supervisors, by the Director, and such action shall be evidenced thereon by his signature; provided,

(A) Such plats are in satisfactory accordance with a proffered generalized development plan, proffered or approved final development plan, or approved special exception plat for a cluster subdivision or waiver of the minimum lot size requirements, which plan or plat is certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State or an approved preliminary plat and the provisions of this Chapter and, as such have been recommended for approval to the Director, which action shall be evidenced on the copies by appropriate signatures and such plats have been approved by the Director of Health Services or his agent which action shall be evidenced on the copies by his signature; and

(B) All physical improvements required by the provisions of this Chapter for the subdivision so platted shall have been installed therein, and approved for conformance with the construction plans and specifications therefore, such construction plans and specifications having

been submitted and approved prior to the commencement of construction; except in lieu of actual installation of such physical improvements, there shall be executed by the subdivider and submitted with the final plat an agreement to construct such physical improvements in form and substance approved by the County, together with a bond with surety satisfactory to the County, in an amount sufficient for and conditioned upon the construction of such physical improvements in form and substance as approved by the County in the amount of the estimated cost of the physical improvements as determined by the Director. Such agreement and bond shall provide for completion of all work covered thereby within a time to be determined by the Director. Failure of the subdivider to complete the required improvements within the specified time (including any extensions of time which are granted for good cause) shall be deemed to be a violation of this Ordinance and the Director shall withhold further permits or approvals until such violation is in the process of being corrected. The adequacy, conditions and acceptability of any initial bond or bond extensions hereunder shall be determined by the Director or any official of the County as designated by resolution of the Board. In any case where any such official has rejected any such agreement or bond, the subdivider shall have the right to have such determination made by the Board of Supervisors; and

(C) The subdivider has paid to the County the fees set forth in Section 101-2-9 (Fees).

*These amendments shall become effective at 12:01 a.m., July 1, 2004, and final subdivision plats submitted for review prior to July 1, 2004, shall be grandfathered from the requirement to provide a shared utility easement as set forth in Section 101-2-2(24) of the adopted amendments.*

GIVEN under my hand this 21<sup>st</sup> day of June, 2004.

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NANCY VEHR  
Clerk to the Board of Supervisors